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C O N F I D E N T I A L SECTION 01 OF 02 JAKARTA 001869

SIPDIS

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SUBJECT: WILL THE REAL INDONESIAN BAR ASSOCIATION PLEASE
STAND UP?

JAKARTA 00001869 001.2 OF 002

Classified By: Pol/C Joseph L. Novak, reasons 1.4(b+d).

11. (C) SUMMARY: Two Indonesian bar associations are now competing for political support and judicial legitimacy. The Indonesian Advocates Association (Peradi) has been the only GOI-sanctioned bar association, but another bar association has emerged. This rival group, the Congress of Indonesian Advocates (KAI), has started setting up chapters throughout Indonesia and licensing attorneys. This rivalry was fueled by Peradi's May 2008 disbarment of well known Indonesian lawyer Todung Mulya Lubis, currently head of Transparency International (TI) in Indonesia. The presence of two competing bar associations--plus two competing national bar exams--has sown further confusion in the already troubled legal/judicial sector and slowed reform efforts. END SUMMARY.

CREATING A SINGLE BAR ASSOCIATION

12. (SBU) Competing bar associations are sparking confusion in Indonesia's legal sector. For the past three years, Peradi has been the only government-recognized bar association for Indonesian lawyers. Law No. 18/2003 called for the establishment of a single bar association. Previously, multiple associations, including Peradi, claimed legitimacy in Indonesian courts. In 2005, eight bar associations merged in order to establish Peradi as the single bar association, allowing it to claim to represent all legal advocates.

13. (SBU) In 2006, a group of lawyers filed for judicial review in the Constitutional Court against the unification article in the law and disputing Peradi's claim that it, by right, was the single bar association. The court rejected the motion and upheld Peradi as the umbrella organization for Indonesian lawyers. Peradi remains the only organization

recognized by the Supreme Court as authorized to license attorneys in Indonesia. It claims a membership of 19,701 lawyers.

A CHALLENGER APPEARS ON THE SCENE

14. (C) A strong challenger to Peradi has recently emerged. The rival bar association was boosted by a high-profile disbarment. In May 2008, a member of Peradi and well-known lawyer named Todung Mulya Lubis was suddenly disbarred by the organization for alleged conflict of interest in a legal case involving a conglomerate. Lubis, angered over his disbarment, turned around and appealed to a fledgling bar association named KAI for support, thus undercutting Peradi's authority as the lone bar association. The disbarment sparked a very public debate, which continues.

15. (C) Although Lubis was not directly responsible for the formation of KAI in May 2008, the disbarment of Lubis helped give the new organization traction. Approximately 5,000 lawyers resigned their Peradi memberships in support of Lubis in order to join the breakaway organization. KAI offices have been established in over two-thirds of the country's provinces and KAI now claims a membership of over 11,000 lawyers. In conversations with poloff, Lubis expressed confidence that the roll-out of KAI would continue and that, despite strong resistance from Peradi, KAI would eventually prevail.

16. (C) The speed with which KAI has established itself indicates the existence of considerable dissatisfaction within Peradi's ranks. Mismanagement and unattainable standards have been cited as reasons behind the establishment

JAKARTA 00001869 002.2 OF 002

of the rival bar association, even if the immediate impulse was more personal and linked to Lubis' situation. According to many observers, the Peradi bar exam is too difficult and creates too high a bar for law graduates. Some assert, on the other hand, that KAI has attracted those who were passed over for key positions within Peradi.

17. (SBU) KAI has even begun to administer a competing bar exam in an effort to increase membership and legitimacy. On August 16, more than 5,000 law graduates took a nationwide test held by KAI to obtain licensing and law practice certificates. Denny Kailimang, deputy chairman of Peradi, has stated that KAI can issue certificates but that the certificates will be meaningless because the organization is not legitimate. The registration for Peradi's December 6 bar exam will open on October 24. Peradi has asserted that the courts will only recognize its certificates. The courts have made no clear pronouncement one way or the other. During the Peradi annual meeting on August 30, five senior judges and academicians, who are now members of KAI, called for the unification of the two bar associations.

MORE CONFUSION IN THE LEGAL SECTOR

18. (C) The competing claims of legitimacy by the two bar associations has created confusion in the judicial sector. President Yudhoyono has received representatives of both organizations and both claim to have the endorsement of the President. Yudhoyono's Law and Human Rights Minister, Andi Matalatta, has said publicly that the government only recognizes Peradi as the legitimate bar association, but has also said that KAI would not be considered illegal.

19. (C) For the time being, the government has sidestepped the issue, leaving the question open as to how the issue should be resolved. Because of this confusion, some judicial reform advocates are reluctant to work with either bar association until the dispute has been settled. There seem to be two ways ahead: either the legal community comes to a consensus over time on its own or there is another legal challenge. Whatever happens, the continued problems in this

area are not good news for Indonesia's troubled legal/judicial sector which badly needs to focus on long-term reform.

HUME